S.B.CIVIL WRIT PETITION NO.6818/2003

Goma Ram Vs. Labour Court & Anr.

DATE OF ORDER :: 17th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Vijay Mehta, for the petitioner.
Mr. Shyam Ladrecha, Addl. Govt. Advocate.

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By this petition for writ a challenge is given to the correctness, validity and propriety of the award dated 24.7.2003 passed by the labour court, Jodhpur in Industrial Dispute No.244/2001. The appropriate government under its notification dated 24.5.2001 referred an industrial dispute to the labour court, Jodhpur for its adjudication in the terms as to "whether the termination of workman Sh. Goma Ram S/o Motiram w.e.f. 22.5.1994 by an oral order of Assistant Engineer, Sub-division-IV, City Division -II, Public Health & Engineering Department, Jodhpur was legal and justified? If not, then for what relief the workman is entitled?" The labour court on basis of the vouchers pertaining to the month of May and June 1994 held that in the months aforesaid the workman was not in employment, and therefore, he did not complete the continuous service in a calendar year as defined under Section 25B of the Industrial Disputes Act, 1947.

The contention of learned counsel for the petitioner while giving challenge to the award impugned is that the vouchers for the month of May and June were not at all part of evidence that was produced by the employer and, as such, reliance upon them is illegal. It is asserted by learned counsel for the petitioner that as a matter of fact in view of the statement given by Sh. Mohan Lal Parihar, Assistant Engineer no muster roll was maintained by the employer after the month of February 1995.

This Court by the order dated 6.4.2007 called the record of the court below and from examination of that it is found that the vouchers concerned were placed on record by the employer on 21.6.2003 that is after completion of the evidence on 28.4.2003. The copies of the vouchers concerned were also not supplied to the representative of the workman. The workman, therefore, had no occasion to meet documents submitted on 21.6.2003. The sole finding of the award impugned is based on vouchers of the moth of May and June 2003 and those were not part of the evidence, as such, the award impugned is bad in eye of law. The same deserves to be quashed.

The writ petition is accordingly allowed. The award impugned dated 24.7.2003 is quashed and the matter is remitted to the labour court to decide the same afresh ignoring the documents submitted by the employer after completion of evidence on 21.6.2003. No order as to cost.

(GOVIND MATHUR),J.

Jgoyal